

**EXHIBIT C**

FILED

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY

Dec 2 3 45 PM '83

STATE OF CALIFORNIA  
vs.CONTROLLED  
DOCUMENTERNEST W. HAWTHORNE  
MONTEREY COUNTY CLERK  
DEPT. DEPUTY  
*W. Hawthorne*  
ACTION NO.

Agliano

MCR 4898

(12-8-83)

FRANK ANTHONY McCORMICK

DEFENDANT

## PROBATION OFFICER'S REPORT

## CASE DATA

DATE OFFENSE COMMITTED August 9, 1983

DATE OF ARREST August 10, 1983

INFORMATION FILED September 2, 1983

DATE OF REFERRAL November 10, 1983

REPORT FILED \_\_\_\_\_

ORIGINAL OFFENSE Count 1: 187 P.C. Also alleged under Count 1 is an enhancement per  
12022.5 P.C.

Count 2: 245 P.C. Also alleged under Count 2 is an enhancement per  
12022.5 P.C.

CONVICTED OFFENSE The defendant has been found guilty of the above-listed charges by  
jury trial

DAYS IN CUSTODY 121 actual + 61 good/work time = 182 total credits

LEGAL COUNSEL John Howell

PROBATION OFFICER David Reynolds

DATE OF BIRTH March 17, 1951 (32)

BIRTHPLACE Columbia, South Carolina

ADDRESS 2404 Dover Way, Pittsburg, CA

TELEPHONE NUMBER (415) 439-1967

## PEL CODE SECTION 2900.5 - TIME SERVED CREDITS

THE DEFENDANT WAS IN CUSTODY IN THE FOLLOWING FACILITY(S) BECAUSE OF THE CONDUCT FOR WHICH THE DEFENDANT WAS CONVICTED IN THIS CASE:

	NAME OR LOCATION OF FACILITY	DATES FROM	TO	TOTAL DAYS
JAIL	MCJ	8-10-83	12-8-83	121
CAMP				
WORK FURLOUGH				
HALF-WAY HOUSE				
REHABILITATION FACILITIES				
HOSPITAL				
PRISON				

ANY OTHER PLACE DEFENDANT WAS ORDERED BY A COURT TO RESIDE AS A CONDITION OF PROBATION, SUCH AS A RESIDENTIAL DRUG (ALCOHOL, PSYCHIATRIC) TREATMENT CENTER.

	good/work time	61
<b>TOTAL CREDITS</b>		<b>182</b>

CIRCUMSTANCES OF THE OFFENSE: In the early morning hours of August 10, 1983, police officers arrested Alfred Emanuel "Bubba" Johnson, Jr. and Frank McCormick as suspects in the shooting death of an individual named Stephen Edwards in the parking lot of the Seaside Club a few hours earlier. According to witnesses, Edwards had been sitting in a vehicle with two friends in front of the Seaside Club when Johnson and McCormick pulled into the parking lot. Johnson then approached the passenger side of the car occupied by Edwards while McCormick approached the driver's side. Words were exchanged between Edwards and Johnson and at some point, McCormick pulled out a handgun which he pointed at Alvin Brooks, Edward's companion. The discussion between Edwards and Johnson grew heated until, according to witnesses, a shot rang out and Edwards was struck

with a bullet from the gun of Frank McCormick. The suspects then fled the area in a car that was traced to McCormick's residence in Fort Ord. The suspect vehicle, it was later noted by arresting officers, had been parked behind the residence in a manner which concealed it from the street.

Additional witness interviews were conducted at the scene of the crime and one individual, who wished to remain anonymous, advised that after hearing the shot ring out, he observed two Negro males approach an apartment complex from the Seaside and place something under a white Cadillac which was parked at the complex. The caller felt that this might possibly have been a firearm, however, a search of the area by police officers a short time later revealed nothing.

A statement was also taken from Alvin Brooks, driver of the vehicle in which Stephen Edwards was sitting at the time he was shot. Brooks indicated that he, Edwards, and another individual had been drinking some whisky while parked in the Seaside parking lot when Bubba Johnson had driven by in a 280Z. Johnson then proceeded to drive around the block, and on the third time around, got out of the car. He called out to Edwards, "Get out and come over here and talk." Edwards refused, however, and indicated that he did not wish to be involved with Johnson. Johnson then approached the car and took a swing at Edwards, as Frank McCormick simultaneously came to the driver's side. Upon reaching the door, McCormick produced a handgun and pointed it at Brooks' left temple. Brooks attempted to start his car but the battery was dead. McCormick then stated, "Go for it," indicating that Brooks had a gun. Brooks told McCormick that he had no gun, and at this time he was ordered to remove the keys from the car. As he was doing so, Brooks observed McCormick move the gun and fire one shot. He heard Edwards yell and realized that Edwards had been hit. Just before the shooting, Johnson had been arguing with Edwards about Edwards carrying a knife. After the shot, McCormick and Johnson left the area immediately.

Regarding the cause of the dispute between Bubba Johnson and Stephen Edwards, several witnesses indicated that approximately two days before, the two had exchanged words at the Seaside Club. Among other things, Edwards had called Johnson a "rapist", an appellation which particularly perturbed Johnson as he had served time in prison on rape charges. A fight ensued, the police were called, and Bubba Johnson was maced and taken to the Seaside Police Station. No charges were filed, however.

At approximately 6:30 a.m. on August 10th, Frank McCormick volunteered a statement regarding his involvement in the listed offense. He related that Johnson and himself had been at the Seaside around 3:00 or 4:00 p.m. the previous afternoon, but had not gone back later that evening. When confronted with the fact that several witnesses had seen Johnson and himself in the parking lot later that evening, McCormick said that he was heavily intoxicated and couldn't say for sure that the two hadn't stopped by. In a later interview, in fact, McCormick admitted that the two had approached Stephen Edwards in the Seaside parking lot later that evening. McCormick added that at the time of the shooting, Edwards was reaching under the seat for what he and Johnson thought was a gun. McCormick stated that Johnson had only intended to straighten things out with Edwards after what happened the other night. Edwards, however, had pulled a knife which Johnson had taken away from him. It was then that Edwards began reaching under his seat. According to McCormick, the victim stated, "I'll kill both you motherfuckers". McCormick then fired a shot, in what he claimed was an attempt to hit the seat. He wasn't sure that he'd hit Edwards at this time. McCormick then proceeded home with the murder weapon still in his possession. It was later recovered by police during the search of his residence.

Alfred Johnson and Frank McCormick remain in custody at the Monterey County Jail pending sentence.

VICTIM'S STATUS: According to an autopsy report reviewed by this investigator, Stephen Edwards died within minutes of receiving the gunshot wound, as the bullet travelled through his torso and pierced his aorta. Also damaged were the victim's left lung, liver, and inferior vena cava. He also sustained a broken rib.

Repeated attempts to reach the next of kin for comment have been unsuccessful.

STATEMENT OF THE DEFENDANT: Attached for the Court's consideration is Mr. McCormick's rather concise statement as to his participation in the listed offense.

PRIOR CRIMINAL RECORD: CII# A05940284

3-24-77	Fairfield SO	330 P.C. Gambling	One year probation, \$130 fine.
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FAMILY HISTORY DATA:

Father:	Frank McCormick, Jr. (52) - resides in Pittsburg, CA - runs a janitorial service.
Mother:	Pearline McCormick (51) - resides in Seaside, CA - no listed occupation.
Siblings:	None.

FAMILY ARREST HISTORY: None.

DEFENDANT'S MENTALITY: Average intelligence, cooperative.

WORK HISTORY:

Soldier: Fort Ord, CA - April, 1981 to present - \$1400.00 monthly.

Supervisor: Pittsburg Building Maintenance, Pittsburg - 1974 to 1981 - \$2,000.00 monthly.

Paper mill: John's Manville, Pittsburg - 1971 to 1974 - \$1700.00 monthly.

MARITAL HISTORY: The defendant has been twice married and has three children, the oldest of whom resides with his ex-wife. His second marriage to Patricia Ann McCormick remains intact.

HEALTH AND HABITS: Health good - defendant describes his drinking habits as moderate - once attended the ADAD Program at Fort Ord - relates that on the night of this offense, he had approximately four drinks.

Mr. McCormick indicates that at no time in the past has he used any drugs other than marijuana.

MILITARY HISTORY: United States Army, 1981 to present. Apparently, the defendant has yet to be discharged from the military because of the instant proceedings. He holds the rank of E-4 and it appears that his military record is a good one.

FINANCIAL RESPONSIBILITY: Very little. Mr. McCormick has no income at the present time and reports debts in the neighborhood of \$7,000.00. There are no significant assets.

GOVERNMENT CODE SECTION 13967: It is respectfully recommended that the Court find that this offense is a crime of violence, but that the penalty be waived in view of the forthcoming recommendation.

EVALUATION: A man without significant prior criminal record, Frank Anthony McCormick became involved in the instant offense as a result of his relationship with Alfred Johnson, Jr. The defendant maintains that Johnson and he returned to the Seaside on the night of the shooting only with the intention of talking to Johnson's boss. In approaching Steven Edwards, McCormick claims that Johnson merely wanted to straighten things out after the incident two days before. Johnson must have anticipated trouble, however, because he specifically asked McCormick to cover his back.

When asked why he happened to be carrying a firearm on the night of the offense, the defendant states that he intended to leave on a camping trip sometime that night. He denies pointing the gun at the head of Alvin Brooks and, for that matter, denies that he intentionally shot Steven Edwards while the victim argued with Johnson. McCormick now says that his intention was to warn the victim by shooting into the seat, but "It all happened so quick." Because Edwards had already pulled a knife, McCormick felt certain that he was reaching for a gun when he started going under the seat. Whether or not the victim was armed at the time of the shooting, McCormick and Johnson must accept complete responsibility for the outcome due to the fact that it was they who made the confrontation inevitable by initially approaching the victim. It is extremely unfortunate that an individual with so little record of prior criminal conduct involved himself in an offense of this magnitude. If, as maintained by the defendant, there was indeed no malice on his part towards the victim, then it is obvious that Mr. McCormick made several serious errors in judgment which ultimately cost the victim his life.

#### SENTENCING CONSIDERATIONS

PROBATION ELIGIBILITY: Due to the nature of this offense, the defendant is not eligible for probation under the provisions of Penal Code Section 1203.



POSSIBLE FACTORS IN AGGRAVATION: (Rule 421)

1. The crime involved great violence and great bodily harm to the victim.

POSSIBLE FACTORS IN MITIGATION: (Rule 423)

1. The victim was a willing participant in the events which led to the commission of the offense.
2. The defendant has an insignificant prior criminal record.

BASE TERM SENTENCE RANGES:

Count 1:	2nd degree, 187 P.C.	15 years to life.
Count 2:	245 P.C.	2 years, 3 years, 4 years.

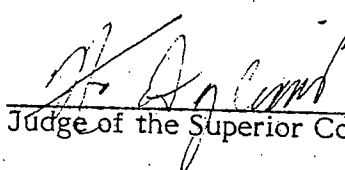
ENHANCEMENTS: A pair of enhancements relating to each respective count have apparently been charged and proven pursuant to 12022.5, thereby adding two years to each count.

RECOMMENDATION: It is respectfully recommended that probation be DENIED, and that Frank Anthony McCormick be committed to the State Department of Corrections for a term of seventeen (17) years to life, with both counts to run concurrently.

DR:jw

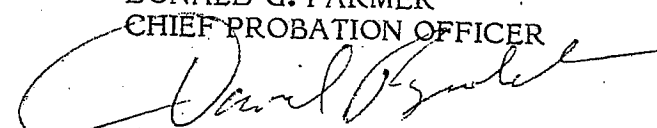
Dated this 1st day of December, 1983

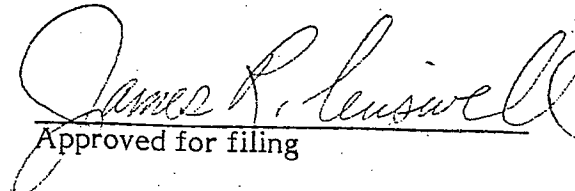
I have read and considered the foregoing report of the Probation Officer.

  
Judge of the Superior Court

Respectfully submitted,

DONALD G. FARMER  
CHIEF PROBATION OFFICER

  
David Reynolds  
Deputy Probation Officer

  
Approved for filing